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SHAPIRO  
WEISSBERG  
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January 14, 2014

**BY CERTIFIED MAIL**

Vincent M. Mitz, President  
Copart of Connecticut  
14185 Dallas Parkway, Suite 300  
Dallas, TX 75254  
Certified Mail # 7011 1150 0000 0300 4476

Andrea Toy, General Manager  
Brian Delmore, Office Manager  
Copart, Inc.  
55R High Street  
North Billerica, MA 01862  
Certified Mail # 7011 1150 0000 0300 4483

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance  
with Federal Clean Water Act's Industrial Stormwater Discharge Requirements:  
55R High Street, North Billerica, MA

Dear Mr. Mitz, Ms. Toy and Mr. Delmore:

This office represents Clean Water Action, a national non-profit citizens' organization working for prevention of pollution in the nation's waters, protection of natural resources, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work. Clean Water Action has over one million members nationally, more than 50,000 of whom reside in Massachusetts.

Copart, Inc. ("Copart") submitted a Notice of Intent ("NOI") to be covered by EPA's reissued Multi-Sector General General Permit for Stormwater Discharges Associated with Industrial Activity ("General Permit") on May 1, 2009.<sup>1</sup> The company has violated and continues to violate the permit's terms and conditions.

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<sup>1</sup> The General Permit was first issued in 1995 and was reissued in 2000 and 2008. 60 Fed. Reg. 50804 (Sept. 29, 1995); 65 Fed. Reg. 64746 (Oct. 30, 2000); 73 Fed. Reg. 56572 (Sept. 29, 2008). The General Permit expired on September 29, 2013, but has been administratively continued by its own terms. See General Permit, pg. 9.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under section 505 of the Federal Clean Water Act (the "Act") against Copart. The subject of the action will be Copart's unlawful discharge of stormwater from its automobile salvage yards facility at 55 R. High Street, North Billerica (the "Facility"). Stormwater runoff from the Facility is discharged into Richardson Pond, which is in the Shawsheen River watershed.

### **BACKGROUND**

Activities that take place at industrial facilities, such as material handling and storage, are often exposed to the weather. As runoff from rain or snowmelt comes into contact with these materials, it picks up pollutants and transports them to nearby rivers, lakes, or coastal waters and tributaries thereto, including but not limited to storm sewer systems, wetlands, and other surface waters. Stormwater pollution is a significant source of water quality problems for the nation's waters.

The following are *some* of the activities, pollutant sources and pollutants that may be present with Copart's automobile salvage yard processes:

| Activity            | Pollutant Source   | Pollutant  |
|---------------------|--|--|
| Vehicle Dismantling | Oil, anti-freeze, batteries, gasoline, diesel fuel, hydraulic fluids, electrical switches  | Oil and grease, ethylene glycol, heavy metals, mercury   |
| Used Parts Storage  | Batteries, chrome bumpers, wheel balance weights, tires, rims, filters, radiators, catalytic converters, engine blocks, hub caps, doors, drivelines, galvanized metals, mufflers | Sulfuric acid, galvanized metals, oil and grease, heavy metals, petroleum hydrocarbons, total suspended solids (TSS) |

|  |  |  |
|--|--|--|
| Outdoor Vehicle and Equipment Storage        | Leaking engines, chipping/corroding bumpers, chipping paint, galvanized metal  | Oil and grease, arsenic, organics, heavy metals, total suspended solids (TSS)  |
| Vehicle and Equipment Maintenance            | Parts cleaning   | Chlorinated solvents, oil and grease, heavy metals, acid/alkaline wastes   |
|  | Waste disposal of greasy rags, oil filters, air filters, batteries, hydraulic fluids, transmission fluids, radiator fluids, degreasers | Oil, heavy metals, chlorinated solvents, acid/alkaline wastes oil, heavy metals, chlorinated solvents, acid/alkaline wastes, ethylene glycol |
|  | Spills of oil, degreasers, hydraulic fluids, transmission fluid, and radiator fluids   | Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol  |
|  | Fluids replacement, including oil, hydraulic fluids, transmission fluid, and radiator fluids   | Oil, arsenic, heavy metals, organics, chlorinated solvents, ethylene glycol  |
| Vehicle, Equipment, and Parts Washing Areas  | Washing and steam cleaning waters  | Oil and grease, detergents, heavy metals, chlorinated solvents, phosphorus, salts, suspended solids  |
| Liquid Storage in Above Ground Storage Tanks | External corrosion and structural failure, Installation problems, Spills and overfills due to operator error                           | Fuel, oil and grease, heavy metals, materials being stored   |
| Illicit Connection to Storm Sewer            | Sanitary water   | Bacteria, biochemical oxygen demand (BOD), suspended solids  |
|  | Floor drains   | Oil and grease, heavy metals, chlorinated solvents, fuel, ethylene glycol  |
|  | Vehicle washwaters   | Oil and grease, detergents, metals, chlorinated solvents, phosphorus, suspended solids   |
|  | Radiator flushing wastewater   | Ethylene glycol  |
|  | Leaking underground storage tanks  | Materials stored or previously stored  |

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Clean Water Action will ask the Court to ensure Copart's future compliance with the Act, assess civil penalties in an appropriate amount,<sup>2</sup> award plaintiff its litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

Cindy Luppi, New England Regional Co-Director  
Clean Water Action  
262 Washington Street, Suite 301  
Boston, MA 02108  
(617) 338-8131  
(617) 335-6449 (fax)

Counsel for Clean Water Action in this case is:

Nora J. Chorover  
Stern, Shapiro, Weissberg & Garin, LLP  
90 Canal Street, Suite 500  
Boston, MA 02114  
(617) 742-5800  
(617) 742-5858 (fax)

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<sup>2</sup> The Act authorizes the Court to assess a penalty of up to \$37,500 per day of violation. *See* 73 Fed. Reg. 75340 (Dec. 11, 2008).

## **COPART'S VIOLATIONS AND DATES OF VIOLATIONS**

Copart's violations are described below and are also set forth on a Table attached as Exhibit A hereto.<sup>3</sup> The Complaint, when filed, will set forth additional days of violations that occur between the date of this letter and the date on which the Complaint is filed.

### **A. VIOLATIONS OF THE TERMS OF THE GENERAL PERMIT.**

The company has violated the permit's terms, as follows:

#### **1. Failure to Comply with the Permit's Monitoring Requirements**

Copart is required to monitor its discharges in accordance with the specific provisions of section 6 of the General Permit (pgs. 33-40) and Appendix B, section B. This includes monitoring for benchmark parameters applicable to automobile salvage years. General Permit, section 8.M.5. Copart was required to monitor for the presence of pollutants in its stormwater discharges for each quarter commencing with the July 1, 2009, to September 30, 2009, quarter. Quarterly monitoring is required to continue until four consecutive quarterly samples show that the company's discharges are below EPA benchmark levels.<sup>4</sup> Copart failed to comply with these benchmark parameter monitoring requirements. The only benchmark parameter it monitored for was Iron, and it only monitored Iron twice since July 1, 2009.<sup>5</sup> To the extent additional monitoring violations become known to Clean Water Action before the action is filed, the complaint will seek remedy for such additional monitoring violations. To the extent additional monitoring violations are learned through discovery in the action, the complaint will be amended to seek remedy for such additional monitoring violations.<sup>6</sup>

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<sup>3</sup> Clean Water Action believes that violations have occurred on the dates identified in this letter and on Exhibit A, and not just on rain days. However, to the extent it is determined that rain days are relevant in determining the dates of violations, such rain dates through January 6, 2014 are set forth on Exhibit B hereto. The complaint, when filed, will set forth additional rain dates since that date.

<sup>4</sup> Specifically, Copart was required to monitor for Total Suspended Solids, Total Aluminum, Total Iron and Total Lead. See General Permit, section 8.M.5.

<sup>5</sup> Iron was monitored on June 9, 2011 and July 26, 2013. On both occasions, the Iron value exceeded the benchmark limit of 1.0 mg/l.

<sup>6</sup> Additional discovered monitoring violations may include, without limitation: failure to ensure representative sampling (General Permit, App. B, section B(1)(A), pg. B-5); failure to

2. Failure to Comply with the Permit's Reporting Requirements.

Copart is required to report certain information to EPA and the Massachusetts Department of Environmental Protection ("Mass DEP") regarding its stormwater discharges in accordance with the provisions of section 7 of the Permit. Among other things, Copart must submit quarterly benchmark monitoring data to EPA. See General Permit, section 7.1.<sup>7</sup> Benchmark pollutant monitoring reports were to have been filed with EPA 30 days following receipt of monitoring results. Copart failed to comply with these reporting requirements, as set forth on Exhibit A.

Copart is also required to prepare and submit to EPA annual reports that include findings from its annual comprehensive site inspections and documentation of corrective actions. See General Permit, section 7.2. Copart failed to submit its 2012 annual report to EPA, as set forth on Exhibit A.

To the extent additional reporting violations become known to Clean Water Action before the action is filed, the complaint will seek remedy for such additional reporting violations. To the extent additional reporting violations are learned through discovery in the action, the complaint will be amended to seek remedy for such additional reporting violations.<sup>8</sup>

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monitor from all facility outfalls (id., section 6.1.1, pg. 33); failure to monitor during a measurable storm event following the preceding storm by at least 3 days (id., section 6.1.3, pg. 33); failure to conduct monitoring in accordance with test procedures approved under 40 CFR Part 136 (id., App. B, section B(10), pg. B-6); or failure to sample within the first 30 minutes of a measurable storm event (id., section 6.1.4, pg. 34).

<sup>7</sup> If the data contains any exceedences of benchmarks, it must also be submitted to Mass DEP. See General Permit, Section 9.1.2.4.

<sup>8</sup> Additional discovered reporting violations may include, without limitation, failure to submit all reporting data to EPA no later than 30 days after receipt of laboratory results (General Permit, section 7.1).

3. Failure to Ensure That Control Measures Minimize Pollutant Discharges

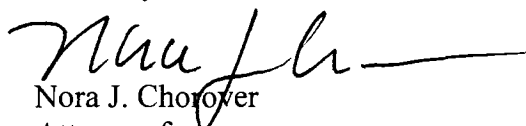
The General Permit requires Copart to ensure that its control measures minimize its stormwater pollutant discharges. General Permit, section 2.0 (pg. 12).<sup>9</sup> The company must modify its control measures as expeditiously as practicable whenever it finds that they “are not achieving their intended effect of minimizing pollutant discharges.” Id., section 2.1. Because the company has not been regularly monitoring its pollutant discharges as required by the permit, it cannot know how its existing control measures are performing and therefore cannot have been modifying them as necessary to minimize stormwater pollutant discharges. Moreover, the two times that Copart monitored for Iron, the value was more than twice the benchmark limit of 1.0 mg/l, and the amount of Iron in the discharge went *up* rather than down between 2011 and 2013.

This Notice Letter alleges that Copart failed to implement adequate control measures based on information presently available to Clean Water Action. If additional information regarding this violation becomes known to Clean Water Action in the future, the complaint may set forth some or all of such additional information.

**CONCLUSION**

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact us within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

  
Nora J. Chorover  
Attorney for  
CLEAN WATER ACTION

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<sup>9</sup> “Minimize” means “reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.” Id.

Copart, Inc.

1/14/2014

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cc: (by certified mail)

Curt Spalding, Regional Administrator  
EPA New England, Region 1,  
5 Post Office Square, Ste. 100  
Boston MA 02109  
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US EPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Ave., N.W.  
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Eric Holder, Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Certified Mail # 7011 1150 0000 0300 4513

Kenneth L. Kimmell, Commissioner  
Massachusetts Department of Environmental Protection  
One Winter Street  
Boston, MA 02108  
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Corporation Service Company  
84 State Street  
Boston, MA 02109  
Certified Mail # 7011 1150 0000 0300 4537



**EXHIBIT A**  
**COPART, INC.'S PERMIT VIOLATIONS**

| <b>Quarter</b> | <b>Type of Violation</b>     | <b>Parameter</b>           | <b>Beginning Date of Violation</b> | <b>Earliest End Date of Violation</b> |
|----------------|------------------------------|----------------------------|------------------------------------|---------------------------------------|
| 1              | Failure to Monitor Benchmark | Total Recoverable Lead     | September 30, 2009                 | The present                           |
| 1              | Failure to Report Benchmark  | Total Recoverable Lead     | October 30, 2009                   | The present                           |
| 1              | Failure to Monitor Benchmark | Total Recoverable Iron     | September 30, 2009                 | The present                           |
| 1              | Failure to Report Benchmark  | Total Recoverable Iron     | October 30, 2009                   | The present                           |
| 1              | Failure to Monitor Benchmark | Total Recoverable Aluminum | September 30, 2009                 | The present                           |
| 1              | Failure to Report Benchmark  | Total Recoverable Aluminum | October 30, 2009                   | The present                           |
| 1              | Failure to Monitor Benchmark | Total Suspended Solids     | September 30, 2009                 | The present                           |
| 1              | Failure to Report Benchmark  | Total Suspended Solids     | October 30, 2009                   | The present                           |
| 2              | Failure to Monitor Benchmark | Total Recoverable Lead     | December 31, 2009                  | The present                           |
| 2              | Failure to Report Benchmark  | Total Recoverable Lead     | January 30, 2010                   | The present                           |
| 2              | Failure to Monitor Benchmark | Total Recoverable Iron     | December 31, 2009                  | The present                           |
| 2              | Failure to Report Benchmark  | Total Recoverable Iron     | January 30, 2010                   | The present                           |
| 2              | Failure to Monitor Benchmark | Total Recoverable Aluminum | December 31, 2009                  | The present                           |
| 2              | Failure to Report Benchmark  | Total Recoverable Aluminum | January 30, 2010                   | The present                           |
| 2              | Failure to Monitor Benchmark | Total Suspended Solids     | December 31, 2009                  | The present                           |
| 2              | Failure to Report Benchmark  | Total Suspended Solids     | January 30, 2010                   | The present                           |
| 3              | Failure to Monitor Benchmark | Total Recoverable Lead     | March 31, 2010                     | The present                           |
| 3              | Failure to Report Benchmark  | Total Recoverable Lead     | April 30, 2010                     | The present                           |
| 3              | Failure to Monitor Benchmark | Total Recoverable Iron     | March 31, 2010                     | The present                           |
| 3              | Failure to Report Benchmark  | Total Recoverable Iron     | April 30, 2010                     | The present                           |
| 3              | Failure to Monitor Benchmark | Total Recoverable Aluminum | March 31, 2010                     | The present                           |
| 3              | Failure to Report Benchmark  | Total Recoverable Aluminum | April 30, 2010                     | The present                           |
| 3              | Failure to Monitor Benchmark | Total Suspended Solids     | March 31, 2010                     | The present                           |
| 3              | Failure to Report Benchmark  | Total Suspended Solids     | April 30, 2010                     | The present                           |
| 4              | Failure to Monitor Benchmark | Total Recoverable Lead     | June 30, 2010                      | The present                           |
| 4              | Failure to Report Benchmark  | Total Recoverable Lead     | July 30, 2010                      | The present                           |
| 4              | Failure to Monitor Benchmark | Total Recoverable Iron     | June 30, 2010                      | The present                           |

| <b>Quarter</b> | <b>Type of Violation</b>     | <b>Parameter</b>           | <b>Beginning Date of Violation</b> | <b>Earliest End Date of Violation</b> |
|----------------|------------------------------|----------------------------|------------------------------------|---------------------------------------|
| 4              | Failure to Report Benchmark  | Total Recoverable Iron     | July 30, 2010                      | The present                           |
| 4              | Failure to Monitor Benchmark | Total Recoverable Aluminum | June 30, 2010                      | The present                           |
| 4              | Failure to Report Benchmark  | Total Recoverable Aluminum | July 30, 2010                      | The present                           |
| 4              | Failure to Monitor Benchmark | Total Suspended Solids     | June 30, 2010                      | The present                           |
| 4              | Failure to Report Benchmark  | Total Suspended Solids     | July 30, 2010                      | The present                           |
| 5              | Failure to Monitor Benchmark | Total Recoverable Lead     | September 30, 2010                 | The present                           |
| 5              | Failure to Report Benchmark  | Total Recoverable Lead     | October 30, 2010                   | The present                           |
| 5              | Failure to Monitor Benchmark | Total Recoverable Iron     | September 30, 2010                 | The present                           |
| 5              | Failure to Report Benchmark  | Total Recoverable Iron     | October 30, 2010                   | The present                           |
| 5              | Failure to Monitor Benchmark | Total Recoverable Aluminum | September 30, 2010                 | The present                           |
| 5              | Failure to Report Benchmark  | Total Recoverable Aluminum | October 30, 2010                   | The present                           |
| 5              | Failure to Monitor Benchmark | Total Suspended Solids     | September 30, 2010                 | The present                           |
| 5              | Failure to Report Benchmark  | Total Suspended Solids     | October 30, 2010                   | The present                           |
| 6              | Failure to Monitor Benchmark | Total Recoverable Lead     | December 31, 2010                  | The present                           |
| 6              | Failure to Report Benchmark  | Total Recoverable Lead     | January 30, 2011                   | The present                           |
| 6              | Failure to Monitor Benchmark | Total Recoverable Iron     | December 31, 2010                  | The present                           |
| 6              | Failure to Report Benchmark  | Total Recoverable Iron     | January 30, 2011                   | The present                           |
| 6              | Failure to Monitor Benchmark | Total Recoverable Aluminum | December 31, 2010                  | The present                           |
| 6              | Failure to Report Benchmark  | Total Recoverable Aluminum | January 30, 2011                   | The present                           |
| 6              | Failure to Monitor Benchmark | Total Suspended Solids     | December 31, 2010                  | The present                           |
| 6              | Failure to Report Benchmark  | Total Suspended Solids     | January 30, 2011                   | The present                           |
| 7              | Failure to Monitor Benchmark | Total Recoverable Lead     | March 31, 2011                     | The present                           |
| 7              | Failure to Report Benchmark  | Total Recoverable Lead     | April 30, 2011                     | The present                           |
| 7              | Failure to Monitor Benchmark | Total Recoverable Iron     | March 31, 2011                     | The present                           |
| 7              | Failure to Report Benchmark  | Total Recoverable Iron     | April 30, 2011                     | The present                           |
| 7              | Failure to Monitor Benchmark | Total Recoverable Aluminum | March 31, 2011                     | The present                           |
| 7              | Failure to Report Benchmark  | Total Recoverable Aluminum | April 30, 2011                     | The present                           |
| 7              | Failure to Monitor Benchmark | Total Suspended Solids     | March 31, 2011                     | The present                           |
| 7              | Failure to Report Benchmark  | Total Suspended Solids     | April 30, 2011                     | The present                           |
| 8              | Failure to Monitor Benchmark | Total Recoverable Lead     | June 30, 2011                      | The present                           |
| 8              | Failure to Report Benchmark  | Total Recoverable Lead     | July 30, 2011                      | The present                           |

| Quarter | Type of Violation            | Parameter                  | Beginning Date of Violation | Earliest End Date of Violation |
|---------|------------------------------|----------------------------|-----------------------------|--------------------------------|
| 8       | Failure to Monitor Benchmark | Total Recoverable Aluminum | June 30, 2011               | The present                    |
| 8       | Failure to Report Benchmark  | Total Recoverable Aluminum | July 30, 2011               | The present                    |
| 8       | Failure to Monitor Benchmark | Total Suspended Solids     | June 30, 2011               | The present                    |
| 8       | Failure to Report Benchmark  | Total Suspended Solids     | July 30, 2011               | The present                    |
| 9       | Failure to Monitor Benchmark | Total Recoverable Lead     | September 30, 2011          | The present                    |
| 9       | Failure to Report Benchmark  | Total Recoverable Lead     | October 30, 2011            | The present                    |
| 9       | Failure to Monitor Benchmark | Total Recoverable Iron     | September 30, 2011          | The present                    |
| 9       | Failure to Report Benchmark  | Total Recoverable Iron     | October 30, 2011            | The present                    |
| 9       | Failure to Monitor Benchmark | Total Recoverable Aluminum | September 30, 2011          | The present                    |
| 9       | Failure to Report Benchmark  | Total Recoverable Aluminum | October 30, 2011            | The present                    |
| 9       | Failure to Monitor Benchmark | Total Suspended Solids     | September 30, 2011          | The present                    |
| 9       | Failure to Report Benchmark  | Total Suspended Solids     | October 30, 2011            | The present                    |
| 10      | Failure to Monitor Benchmark | Total Recoverable Lead     | December 31, 2011           | The present                    |
| 10      | Failure to Report Benchmark  | Total Recoverable Lead     | January 30, 2012            | The present                    |
| 10      | Failure to Monitor Benchmark | Total Recoverable Iron     | December 31, 2011           | The present                    |
| 10      | Failure to Report Benchmark  | Total Recoverable Iron     | January 30, 2012            | The present                    |
| 10      | Failure to Monitor Benchmark | Total Recoverable Aluminum | December 31, 2011           | The present                    |
| 10      | Failure to Report Benchmark  | Total Recoverable Aluminum | January 30, 2012            | The present                    |
| 10      | Failure to Monitor Benchmark | Total Suspended Solids     | December 31, 2011           | The present                    |
| 10      | Failure to Report Benchmark  | Total Suspended Solids     | January 30, 2012            | The present                    |
| 11      | Failure to Monitor Benchmark | Total Recoverable Lead     | March 31, 2012              | The present                    |
| 11      | Failure to Report Benchmark  | Total Recoverable Lead     | April 30, 2012              | The present                    |
| 11      | Failure to Monitor Benchmark | Total Recoverable Iron     | March 31, 2012              | The present                    |
| 11      | Failure to Report Benchmark  | Total Recoverable Iron     | April 30, 2012              | The present                    |
| 11      | Failure to Monitor Benchmark | Total Recoverable Aluminum | March 31, 2012              | The present                    |
| 11      | Failure to Report Benchmark  | Total Recoverable Aluminum | April 30, 2012              | The present                    |
| 11      | Failure to Monitor Benchmark | Total Suspended Solids     | March 31, 2012              | The present                    |
| 11      | Failure to Report Benchmark  | Total Suspended Solids     | April 30, 2012              | The present                    |
| 12      | Failure to Monitor Benchmark | Total Recoverable Lead     | June 30, 2012               | The present                    |
| 12      | Failure to Report Benchmark  | Total Recoverable Lead     | July 30, 2012               | The present                    |
| 12      | Failure to Monitor Benchmark | Total Recoverable Iron     | June 30, 2012               | The present                    |

| <b>Quarter</b> | <b>Type of Violation</b>     | <b>Parameter</b>           | <b>Beginning Date of Violation</b> | <b>Earliest End Date of Violation</b> |
|----------------|------------------------------|----------------------------|------------------------------------|---------------------------------------|
| 12             | Failure to Report Benchmark  | Total Recoverable Iron     | July 30, 2012                      | The present                           |
| 12             | Failure to Monitor Benchmark | Total Recoverable Aluminum | June 30, 2012                      | The present                           |
| 12             | Failure to Report Benchmark  | Total Recoverable Aluminum | July 30, 2012                      | The present                           |
| 12             | Failure to Monitor Benchmark | Total Suspended Solids     | June 30, 2012                      | The present                           |
| 12             | Failure to Report Benchmark  | Total Suspended Solids     | July 30, 2012                      | The present                           |
| 13             | Failure to Monitor Benchmark | Total Recoverable Lead     | September 30, 2012                 | The present                           |
| 13             | Failure to Report Benchmark  | Total Recoverable Lead     | October 30, 2012                   | The present                           |
| 13             | Failure to Monitor Benchmark | Total Recoverable Iron     | September 30, 2012                 | The present                           |
| 13             | Failure to Report Benchmark  | Total Recoverable Iron     | October 30, 2012                   | The present                           |
| 13             | Failure to Monitor Benchmark | Total Recoverable Aluminum | September 30, 2012                 | The present                           |
| 13             | Failure to Report Benchmark  | Total Recoverable Aluminum | October 30, 2012                   | The present                           |
| 13             | Failure to Monitor Benchmark | Total Suspended Solids     | September 30, 2012                 | The present                           |
| 13             | Failure to Report Benchmark  | Total Suspended Solids     | October 30, 2012                   | The present                           |
| 14             | Failure to Monitor Benchmark | Total Recoverable Lead     | December 31, 2012                  | The present                           |
| 14             | Failure to Report Benchmark  | Total Recoverable Lead     | January 30, 2013                   | The present                           |
| 14             | Failure to Monitor Benchmark | Total Recoverable Iron     | December 31, 2012                  | The present                           |
| 14             | Failure to Report Benchmark  | Total Recoverable Iron     | January 30, 2013                   | The present                           |
| 14             | Failure to Monitor Benchmark | Total Recoverable Aluminum | December 31, 2012                  | The present                           |
| 14             | Failure to Report Benchmark  | Total Recoverable Aluminum | January 30, 2013                   | The present                           |
| 14             | Failure to Monitor Benchmark | Total Suspended Solids     | December 31, 2012                  | The present                           |
| 14             | Failure to Report Benchmark  | Total Suspended Solids     | January 30, 2013                   | The present                           |
| 15             | Failure to Monitor Benchmark | Total Recoverable Lead     | March 31, 2013                     | The present                           |
| 15             | Failure to Report Benchmark  | Total Recoverable Lead     | April 30, 2013                     | The present                           |
| 15             | Failure to Monitor Benchmark | Total Recoverable Iron     | March 31, 2013                     | The present                           |
| 15             | Failure to Report Benchmark  | Total Recoverable Iron     | April 30, 2013                     | The present                           |
| 15             | Failure to Monitor Benchmark | Total Recoverable Aluminum | March 31, 2013                     | The present                           |
| 15             | Failure to Report Benchmark  | Total Recoverable Aluminum | April 30, 2013                     | The present                           |
| 15             | Failure to Monitor Benchmark | Total Suspended Solids     | March 31, 2013                     | The present                           |
| 15             | Failure to Report Benchmark  | Total Suspended Solids     | April 30, 2013                     | The present                           |
| 16             | Failure to Monitor Benchmark | Total Recoverable Lead     | June 30, 2013                      | The present                           |
| 16             | Failure to Report Benchmark  | Total Recoverable Lead     | July 30, 2013                      | The present                           |

| <b>Quarter</b> | <b>Type of Violation</b>  | <b>Parameter</b>           | <b>Beginning Date of Violation</b> | <b>Earliest End Date of Violation</b> |
|----------------|---|----------------------------|------------------------------------|---------------------------------------|
| 16             | Failure to Monitor Benchmark  | Total Recoverable Iron     | June 30, 2013                      | The present                           |
| 16             | Failure to Report Benchmark   | Total Recoverable Iron     | July 30, 2013                      | The present                           |
| 16             | Failure to Monitor Benchmark  | Total Recoverable Aluminum | June 30, 2013                      | The present                           |
| 16             | Failure to Report Benchmark   | Total Recoverable Aluminum | July 30, 2013                      | The present                           |
| 16             | Failure to Monitor Benchmark  | Total Suspended Solids     | June 30, 2013                      | The present                           |
| 16             | Failure to Report Benchmark   | Total Suspended Solids     | July 30, 2013                      | The present                           |
| 17             | Failure to Monitor Benchmark  | Total Recoverable Lead     | September 30, 2013                 | The present                           |
| 17             | Failure to Report Benchmark   | Total Recoverable Lead     | October 30, 2013                   | The present                           |
| 17             | Failure to Monitor Benchmark  | Total Recoverable Aluminum | September 30, 2013                 | The present                           |
| 17             | Failure to Report Benchmark   | Total Recoverable Aluminum | October 30, 2013                   | The present                           |
| 17             | Failure to Monitor Benchmark  | Total Suspended Solids     | September 30, 2013                 | The present                           |
| 17             | Failure to Report Benchmark   | Total Suspended Solids     | October 30, 2013                   | The present                           |
| Permit Year 3  | Failure to Conduct and Document Required Inspections                  |                            | September 29, 2012                 | The present                           |
| Permit Year 3  | Failure to Submit Annual Report                                       |                            | November 13, 2012                  | The present                           |
|                | Failure to Ensure that Control Measures Minimize Pollutant Discharges |                            | May 30, 2009                       | The present                           |

## **EXHIBIT B**

### **DAYS BETWEEN JANUARY 13, 2009 AND JANUARY 6, 2014 ON WHICH STORMWATER FROM FACILITY DISCHARGED TO WATERS OF THE UNITED STATES**

|                 |   |
|-----------------|---|
| January 2009:   | 19, 29  |
| February 2009:  | 4, 12, 19, 20, 23   |
| March 2009:     | 2, 3, 10, 11, 12, 20, 27, 30, 31                          |
| April 2009:     | 2, 4, 7, 11, 12, 21, 22, 23                               |
| May 2009:       | 6, 7, 8, 10, 15, 16, 17, 18, 27, 28, 30                   |
| June 2009:      | 1, 10, 11, 12, 13, 14, 15, 19, 22, 23, 24, 25, 26, 29, 30 |
| July 2009:      | 2, 3, 4, 8, 9, 12, 18, 22, 24, 25, 27, 31                 |
| August 2009:    | 1, 14, 21, 23, 24, 29, 30                                 |
| September 2009: | 12, 13, 27, 28, 29  |
| October 2009:   | 4, 7, 8, 10, 14, 19, 24, 25, 28, 29                       |
| November 2009:  | 15, 16, 20, 21, 24, 26, 28                                |
| December 2009:  | 1, 3, 4, 9, 10, 14, 21, 27, 28                            |
| January 2010:   | 1, 2, 3, 18, 19, 20, 26                                   |
| February 2010:  | 17, 24, 25, 26, 27  |
| March 2010:     | 1, 12, 14, 15, 16, 23, 24, 26, 27, 29, 30, 31             |
| April 2010:     | 1, 10, 16, 17, 18, 19, 27, 28, 29                         |
| May 2010:       | 5, 8, 9, 19, 20, 27                                       |
| June 2010:      | 2, 7, 10, 11, 13, 23, 25                                  |
| July 2010:      | 11, 14, 15, 17, 24  |
| August 2010:    | 6, 9, 10, 11, 23, 24, 25, 26                              |
| September 2010: | 9, 14, 17, 27, 28, 29                                     |
| October 2010:   | 1, 2, 4, 5, 6, 7, 8, 12, 15, 16, 22, 25, 26, 28           |
| November 2010:  | 5, 6, 8, 9, 10, 17, 18, 26, 27                            |
| December 2010:  | 1, 2, 13, 23, 27, 28                                      |
| January 2011:   | 12, 13, 19, 20, 21, 22, 27, 28                            |
| February 2011:  | 2, 3, 6, 8, 9, 21, 22, 25, 26, 27, 28                     |
| March 2011:     | 1, 7, 11, 12, 17, 22                                      |
| April 2011:     | 1, 2, 5, 6, 11, 13, 14, 17, 20, 24, 27, 29                |
| May 2011:       | 5, 6, 8, 15, 16, 17, 18, 19, 20, 24, 25                   |
| June 2011:      | 2, 10, 12, 13, 14, 23, 24, 25, 26, 29                     |
| July 2011:      | 5, 7, 9, 14, 19, 26, 27                                   |
| August 2011:    | 3, 5, 7, 8, 10, 15, 16, 22, 26, 28, 29                    |
| September 2011: | 6, 7, 8, 9, 16, 21, 22, 23, 24, 29, 30                    |
| October 2011:   | 2, 3, 4, 5, 13, 14, 15, 17, 20, 21, 27, 28, 30            |
| November 2011:  | 11, 17, 24, 30  |
| December 2011:  | 8, 16, 22, 23, 28   |
| January 2012:   | 2, 12, 17, 18, 20, 22, 24, 27, 28                         |

|                 |   |
|-----------------|---|
| February 2012:  | 17, 25  |
| March 2012:     | 1, 2, 3, 14, 26, 29                                     |
| April 2012:     | 2, 13, 23, 24   |
| May 2012:       | 1, 2, 3, 4, 5, 8, 9, 10, 11, 15, 16, 17, 22, 23, 24, 30 |
| June 2012:      | 3, 4, 5, 6, 7, 9, 13, 14, 24, 26, 28                    |
| July 2012:      | 4, 5, 19, 24, 25, 29, 30                                |
| August 2012:    | 1, 2, 5, 6, 11, 12, 13, 16, 17, 18, 19, 29              |
| September 2012: | 5, 6, 9, 19, 27, 28, 29                                 |
| October 2012:   | 1, 3, 4, 5, 8, 10, 11, 15, 16, 20, 29, 30, 31           |
| November 2012:  | 1, 8, 9, 14, 28   |
| December 2012:  | 3, 9, 10, 11, 17, 18, 19, 21, 22, 27, 28, 30,           |
| January 2013:   | 10, 12, 16, 17, 22, 29, 31                              |
| February 2013:  | 1, 9, 10, 12, 18, 20, 27, 28                            |
| March 2013:     | 7, 8, 9, 13, 19, 20                                     |
| April 2013:     | 1, 10, 11, 12, 13, 20, 24                               |
| May 2013:       | 9, 10, 12, 13, 20, 22, 23, 24, 25, 26, 29, 30           |
| June 2013:      | 3, 4, 8, 11, 12, 14, 18, 19, 25, 26, 27, 28             |
| July 2013:      | 2, 9, 11, 12, 24, 26, 27, 29, 30                        |
| August 2013:    | 2, 10, 14, 27, 31                                       |
| September 2013: | 3, 11, 13, 14, 22                                       |
| October 2013:   | 5, 7, 8, 18, 31   |
| November 2013:  | 1, 12, 13, 18, 19, 27, 28                               |
| December 2013:  | 2, 7, 9, 10, 11, 15, 18, 24, 27, 30                     |
| January 2014:   | 3, 6  |